



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2015-0116]**

**Denial of Exemption Applications; Epilepsy and Seizure Disorders**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of denial.

**SUMMARY:** FMCSA announces its decision to deny applications from 11 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE, Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 P.M., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

**Docket:** For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12-140 on the ground level of the West

Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

## **II. Background**

On July 13, 2015, FMCSA published a notice announcing receipt of applications from 21 individuals requesting an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a CMV in interstate commerce and requested comments from the public (80 FR 40127). The public comment period closed on August 12, 2015, and 10 comments were received.

FMCSA has evaluated the eligibility of these applicants and concluded that granting 11 of the 21 exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). A final notice announcing the decision to grant nine of 21 exemptions and providing a response to the 10 comments received was published on September 14, 2015 (80 FR 55170). One of the applicants in this notice withdrew his request for an exemption.

### **III. Basis for Exemption Determination**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the Federal epilepsy standard for a renewable two-year period if it finds “such exemption is likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.”

The Agency’s decision regarding these exemption applications is based on an individualized assessment of each applicant’s medical information, including the root cause of the respective seizure(s) and medical information about the applicant’s seizure history, the length of time that has elapsed since the individual’s last seizure, the stability of each individual’s treatment regimen and the duration of time on or off of anti-seizure medication. The Agency considered the 2007 recommendations of the Agency’s Medical Expert Panel (MEP). The January 15, 2013 Federal Register notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to make decisions regarding seizure exemptions.

### **IV. Conclusion**

The Agency has determined that these 11 applicants do not satisfy the criteria eligibility or meet the terms and conditions for a Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). Therefore, the applicants listed in this notice have been denied an exemption from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the

denial and constitutes final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial. The following drivers were listed previously in Federal Register Notice FMCSA–2015-0116 published on July 13, 2015:

Leo Arnold Burns – Mr. Burns has a history of a seizure disorder. His last seizure was in 2010. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Rodney Lee Ericson – Mr. Ericson has a history of epilepsy. His last seizure was in 2010. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Kristopher Alan Fraser – Mr. Fraser has a history of epilepsy. His last seizure was in 2007. He takes anti-seizure medication with a change in dosage in October 2015. He does not meet the MEP guidelines at this time.

Todd A. Fuller – Mr. Fuller has a history of a single seizure in 2014. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Howard Pearce Hill – Mr. Hill has a history of a seizure disorder. His last seizure was in 1990. He takes anti-seizure medication with a change in medication 2015. He does not meet the MEP guidelines at this time.

Victor John Martinez – Mr. Martinez has a history of epilepsy. His last seizure was in 2013. He underwent a left craniotomy and lobectomy in 2013. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Sean Michael Monroe – Mr. Monroe has a history of epilepsy. His last seizure was in 2011. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Robert H. Philley – Mr. Philley has a history of a seizure disorder. His last seizure was in 2013. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

David T. Pomianek, Jr. – Mr. Pomianek has a history of epilepsy. His last seizure was in 2011. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Gregory Roy Schaefer – Mr. Schaefer has a history of a single seizure in 2014. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Maciej Skrzyniarz – Mr. Skrzyniarz has a history of a single seizure in 2014. He takes anti-seizure medication. He does not meet the MEP guidelines at this time..

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Larry W. Minor  
Associate Administrator for Policy

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